

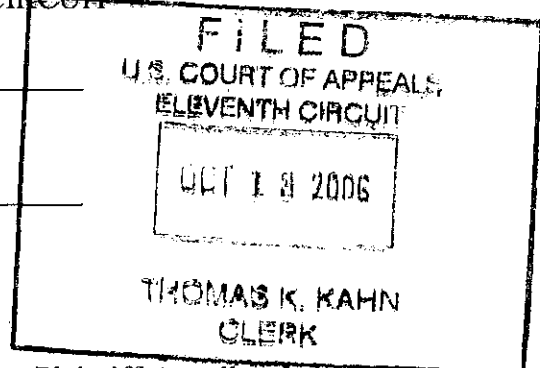
IN THE UNITED STATES COURT OF APPEALS

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FOR THE ELEVENTH CIRCUIT

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No. 06-14416-I



CALVIN MAYS, JR.,

Plaintiff-Appellant,

versus

OLA B. JOHNSON,
DERRICK CUNNINGHAM,

Defendants-Appellees.

Appeal from the United States District Court for the
Middle District of Alabama

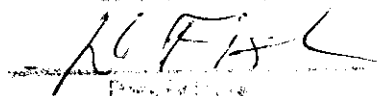
ORDER:

The appellant, in the district court, filed a notice of appeal and a motion to proceed on appeal in forma pauperis (IFP). The district court denied IFP, certifying that the appeal was frivolous and not taken in good faith. However, the district court did not assess a \$455.00 appellate filing fee, as is now required under the Prison Litigation Reform Act of 1995 (April 26, 1996); see 28 U.S.C. § 1915 (as amended).

Appellant has consented to pay the \$455.00 filing fee and any additional costs assessed, using the partial payment plan described under 28 U.S.C. § 1915 (as amended). Thus, the only remaining question is whether the appeal is frivolous. See § 1915(e)(2)(B)(i). This Court now finds that this

appeal is frivolous and DENIES leave to proceed.

Within 35 days of the date of this order, appellant may file a motion for reconsideration. If the Court does not receive such a motion within 35 days, this appeal will be dismissed for lack of prosecution without further notice, pursuant to Eleventh Circuit Rule 42-1(b).

A True Copy - Attached
Clara, U.S. Circuit of Appeals
Dated: 10/16/06

Dated: 10/16/06
Alexandra, 10/16/06

/s/ Gerald Bard Tjoflat
UNITED STATES CIRCUIT JUDGE